



MARSHY'S LAW TEXT (OHIO CRIME VICTIMS BILL OF RIGHTS)

I.10a Rights of victims of crime

(A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

- (1) to be treated with fairness and respect for the victim's safety, dignity and privacy;
- (2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;
- (3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;
- (4) to reasonable protection from the accused or any person acting on behalf of the accused;
- (5) upon request, to reasonable notice of any release or escape of the accused;
- (6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;
- (7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;
- (8) to proceedings free from unreasonable delay and a prompt conclusion of the case;
- (9) upon request, to confer with the attorney for the government; and
- (10) to be informed, in writing, of all rights enumerated in this section.

(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

(D) As used in this section, "victim" means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.

(F) This section shall take effect ninety days after the election at which it was approved.

(Adopted, effective February 5, 2018; Proposed by Initiative Petition)



MARSY'S LAW FAQ'S

General:

Do courts have to appoint attorneys for crime victims?

No, there is no requirement that a court assign a victim an attorney to protect their rights. Courts may appoint an attorney at the court's expense to represent the victim.

Who pays for victims' rights attorneys?

Organizations like Ohio Crime Victim Justice Center offer free victims' rights legal representation to crime victims. Victims are also able to hire their own attorney, though this may come at a significant expense. If you are a victim who needs an attorney, contact Ohio Crime Victim Justice Center at 614-848-8500 or info@ocvjc.org.

Does Marsy's Law apply to Civil Protection Order Cases?

It depends. Marsy's Law protections may be applied to civil matters in some circumstances, for example, when there is a pending criminal case along with the civil matter. For more information on this topic, contact Ohio Crime Victim Justice Center at 614-848-8500 or info@ocvjc.org.

What are the victim's remedies when a Court either denies or ignores a victim's right under Marsy's Law?

Victims can contact organizations like Ohio Crime Victim Justice Center to request free legal assistance from a victims' rights attorney. Victims can request assistance from the prosecutor to enforce their rights. Victims can also hire an attorney. Victims, either pro se or through counsel, can file motions in trial courts and can appeal a court's decision in order to protect their rights.

What happens when the prosecutor does not agree with the victim? For example, a domestic violence victim wants the charges dismissed or refuses to cooperate with the prosecution.

It depends upon what the prosecutor and victim are in disagreement about. For example, if the prosecutor does not agree that the victim can be in the courtroom during the trial, the victim can exercise this right pro se or through counsel, regardless of whether the prosecutor agrees. This logic applies to all victims' rights in Ohio's constitution, statutes, and court rules. However, when it comes to decisions about whether to proceed with prosecution, prosecutors have control over the case. While prosecutors must confer with the victim, the prosecutor is not required to follow the requests of the victim. Prosecutors retain their discretion over the case. In cases where a prosecutor and a victim disagree, we suggest the prosecutor or victim's advocate refer the victim to a victims' rights attorney to help represent the victim's interests.



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Since the victim or victims have a constitutional right to speak with the prosecutor on demand, can they demand to speak to the prosecutor repeatedly without limitation?

No, Marsy's Law provides the right to speak with the attorney for the government upon request. This is subject to reasonable limitations. Ohio Crime Victim Justice Center encourages the use of victims' advocates to help facilitate conversation between the victim and the prosecutor.

Are law enforcement agencies being trained on Marsy's Law?

Ohio Crime Victim Justice Center offers training on Marsy's Law across the state, including trainings with law enforcement agencies.

Do victims have a right to a separate waiting area away from their offender?

Ohio Revised Code 2930.10 requires a court provide separate waiting areas for victims and offenders, if there are separate areas available. Ohio Revised Code 2930.10 also directs courts to make reasonable efforts to minimize contact between offenders and victims. Marsy's Law also provides the right to reasonable protection from the offender.

Can a court punish a victim for not cooperating with the prosecution?

While victims have a voice in the criminal case, the prosecutor still directs the prosecution and may legally compel the victim to assist. For instance, if a victim is subpoenaed to testify, the subpoena is a court order and failing to comply with the order may result in contempt of court.

If the victim is concerned the process is taking too long, what options are available to the victim?

Marsy's Law provides the right to "proceedings free from unreasonable delay and a prompt conclusion of the case." The Ohio Supreme Court suggests most felony cases conclude in a year and most misdemeanor cases in six months. In practice, victims can exercise their right to be heard to object to unreasonable continuances and delays either pro se or through counsel. The victim can also request that the prosecutor object to excessive continuances. A victim who wishes to object to unreasonable delays can contact Ohio Crime Victim Justice Center for assistance.

Victim Privacy

Is the prosecutor required to redact the victim's name and identifying information from the complaint or indictment?

While it is not required, the prosecutor may file a motion with the court requesting an order preventing the disclosure of the victim's address, place of employment, or other similar information. Ohio Rev. Code 2930.07. Marsy's Law also provides the right to privacy and the right to "reasonable protection from the accused or any person acting on behalf of the accused." These rights may include the redaction of identifying information at the discretion of the



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prosecutor. Implementing legislation may require protection of victim names and identifying information. Victims who feel their privacy or safety rights have been or may be violated may be heard by courts, either pro se or through counsel. Victims may also request that prosecutors protect victim privacy and safety on their behalf. A victim who wishes to protect their privacy can contact Ohio Crime Victim Justice Center for assistance.

Is law enforcement required to remove victim contact information from their report?

In most cases, law enforcement is not required to redact the victim's contact information from their report. However, in sexual assault cases, federal law may require law enforcement to redact the "intimate details" of the assault including the victim's name and contact information. *Bloch v. Ribar*, 156 F.3d 673 (1998). Implementing legislation may require law enforcement to redact victim names and identifying information prior to public release of this information.

Can a victim direct a prosecutor to refuse to turn over Criminal Rule 16 or Brady material directly associated with the victim?

The prosecutor is required to turn over any potentially exculpatory information in their possession. Victims should be aware that information the victim discloses to prosecutor-based victim advocates and prosecutors may be turned over to the defense.

Right to be Present:

Does separation of witnesses apply to crime victims? Can a crime victim be at a trial if they have been subpoenaed as a witness? Does a victim's right to attend all public hearings supersede an attorney's request of separation of witnesses in a trial?

Victims are explicitly excluded from the separation of witnesses rule (Evid. R. 615), even prior to Marsy's Law. Marsy's Law provides new constitutional support for victims' right to be present. The separation of witnesses rules do not apply. A crime victim may be present for the entirety of a trial, including voir dire, even if they are subpoenaed and testify. However, a victim cannot be present at grand jury proceedings. If a victim has been denied the right to be present, the victim can object to this in court either pro se or through counsel. The victim can also request that the prosecutor act to protect the victim's right to be present. A victim who anticipates being denied, or has been denied, their right to be present can contact Ohio Crime Victim Justice Center for assistance as soon as possible.

If an officer is setting a bond for a defendant in the middle of the night once arrested for domestic violence, does the victim have a right to participate in the decision regarding the bond? How about at arraignment?

In this situation, the officer is following a bond schedule set by the court. This particular situation may not constitute a "public proceeding" as provided in Marsy's Law. Arraignment, however, is a public proceeding, and therefore, the victim has the right to be heard at arraignment.



Must a prosecutor allow a victim or victim's representative to directly participate in the conduct of a pre-trial conference with defendant or defense counsel?

Victims have the right to be heard on any issue that implicates their rights. Implementing legislation may provide guidance as to when and how a victim or victim's representative will be heard in trial courts. A victim who anticipates being denied, or has been denied, their right to be heard can contact Ohio Crime Victim Justice Center for assistance as soon as possible.

Do you have a reference for the First District ruling on right of victim mentioned in separation of witness?

The court said:

We hold that for a defendant to show that a victim's presence would result in an unfair trial, she must present particularized evidence that the victim's testimony will be so affected by the victim's presence during the testimony of other witnesses that her right to a fair trial would be violated. General assertions that it is possible are insufficient. *State v. Maley*, 2013-Ohio-3452, ¶ 7.

Prosecutor Motions on Behalf of the Victim:

Can you give a couple examples of types of motions a prosecutor might file on behalf of the victim?

Prosecutors can object to excessive continuances and delays in a case. Prosecutors can file a motion in support of a victim's right to be present. Prosecutors can file motions to protect the victim's private information. These are just a few examples of motions the prosecutor might file.

Is the Prosecutor's Office required to send a copy of the Motion for Continuance out to the victim? If so, does the Court need to hold the Motion to give the victim time to voice their opinion?

If requested, the prosecutor shall provide the victim reasonable and timely notice of changing court dates and times. The court does not need to hold a hearing for every continuance. Marsy's Law provides the victim the right to object to unreasonable delay and excessive continuances. Ohio Crime Victim Justice Center suggests that the prosecutor object to unreasonable delay when the case exceeds the Ohio Supreme Court guidelines for case completion unless exigent circumstances exist to make the delay necessary. The victim may request that the prosecutor object to unreasonable delays. The victim may also object to unreasonable delays pro se or through counsel. If the victim has counsel, implementing legislation may require the parties and courts to provide motions and notices of hearings and continuances to victim counsel in the same way the court provides notice to the parties.

Are prosecutors mandated to file a motion for the victim each time they are asked?



No, it is in the prosecutor’s discretion whether or not to file a motion that the victim has requested. If the prosecutor disagrees with a motion the victim has requested, Ohio Crime Victim Justice Center encourages prosecutors and advocates to refer the victim to outside counsel to help.

Unauthorized Practice of Law:

Can a victim advocate tell a victim that they do not have to talk to a defense attorney or is this practicing law without a license? Are victim advocates legally able to discuss and explain crime victim rights (Marsy’s Law)?

Ohio Crime Victim Justice Center believes advocates can inform victims of their rights—including providing written information about victims’ rights, but cannot advise a victim to take a particular course of action. Advocates can find written information in the Attorney General’s Ohio Crime Victims’ Rights Handbook or case specific information online at VictimsRightsToolkit.org. Advocates can also speak with Ohio Crime Victim Justice Center victims’ rights attorneys for additional written information.

Language and terminology are crucial, and Ohio Crime Victim Justice Center would recommend that the advocate facilitate communication with the prosecutor or refer the victim to a victims’ rights attorney for further information.

If a prosecutor files a motion “on behalf of” a victim, does that create any ‘attorney-client’ relationship between the prosecutor and victim and, if so, what are the ethical or malpractice implications?

No. While the prosecutors have duties to protect victims’ rights, they represent the State of Ohio, not the victim. Prosecutors should inform the victim that prosecutors are not the victim’s attorney. Ethically, prosecutors must act in the best interests of the state, even if the state’s interests diverge from the victims. However, because the victim is usually an important part of the state’s case, protecting the victim’s rights is often in line with the prosecutor’s ethical obligations to the state.

Effective Date:

Is Marsy’s Law retroactive? For example, if there was a criminal case already in progress when the law was put into action, does it apply to that case?

Marsy’s Law applies to all cases that are currently in the criminal justice process regardless of whether they began before or after February 5, 2018. Marsy’s Law does not apply to cases that are already closed or hearings that took place prior to February 5, 2018.

Notification:



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Are prosecutors required to provide disposition information in municipal court cases? Is this upon request only?

Ohio Crime Victim Justice Center believes the prosecutor must provide disposition information to the victims in all misdemeanor, felony, and delinquency proceedings, if the victim requests this information. Implementing legislation may refine the definition of “criminal offense or delinquent act,” which may eliminate some cases from notification requirements.

Is it a correct interpretation of the law that law enforcement and prosecutors have obligation to notify victim and not courts?

Law enforcement, prosecutors, courts, and custodial agencies are required to make notifications to victims at different stages of the proceedings. Generally, courts provide notification only when there is no prosecutor assigned to the case. Some courts may wish to provide notice of proceedings to victims in the same manner as these notices are provided to parties.

There is a standard for timely arraignments of defendants, is that delayed if a victim was not notified?

Implementing legislation may require law enforcement to inform victims of how the arraignment process operates in their jurisdiction and provide the clerk of court’s contact information for the victim to learn of the arraignment. This will provide the requisite notification of arraignment, thereby eliminating the likelihood of a delay. Because arraignment often involves victim safety when bond decisions and protection order decisions are made, every effort should be made to notify the victim of arraignment, and allow the victim to be present and heard. However, release decisions that implicate defendants’ constitutional rights should proceed even in victim absence.

Do you have to continue to send out notifications if the victim has never responded or asked for the notification? If notification regarding court proceedings has not been requested by the victim does it still have to be sent out? Whom are victims to direct their request of notice to exactly?

Victims must be informed that they must request certain rights in order to exercise them, including notifications regarding court proceedings. Ohio Crime Victim Justice Center developed a form that can be used by law enforcement and prosecutors to fulfill that requirement, pending further legislation. The form allows a victim to elect to exercise or to waive rights. If a victim initially waives rights, and later decide to exercise them, the victim should notify the prosecutor (or the court if a prosecutor is not currently involved). If a victim has not requested notifications of proceedings, there is no need to continue to notify them absent a statutory provision such as Roberta’s Law making notification “opt out” rather than “opt in.”

What specifically are victims’ rights advocates required to do under Marsy’s Law -that we were not already doing through notification of rights, hearing dates, case updates, etc.?

Most of the Marsy’s Law provisions were already codified prior to the passage of the amendment. Marsy’s Law elevated these provisions to the constitution. Advocates will be able to



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provide services to more victims due to the expanded definition of “victim.” One major change is that restitution is now mandatory. Advocates should work with victims to collect the documentation needed to support a restitution award. Another significant change is that victims have the explicit ability enforce their rights—either pro se, through victims’ counsel like OCVJC attorneys, or, upon request, with the help of the prosecutor. Advocates should provide victims with information on how to enforce their rights and refer victims to Ohio Crime Victim Justice Center if there is any concern the victim’s rights are, or may be, violated.

If a victim does not want charges to be filed and waives all of the victim’s rights at the scene (on form given by law enforcement) and wants nothing to do with the case, should prosecutor’s office still try to notify the victim of court dates, etc.?

The current best practice in many prosecutors’ offices around the state is to notify victims automatically, regardless of request. However, prosecutors are not required to notify victims if they waive this right.

What advice do you have for prosecutors who have cases with victims but do not have current contact information for the victims?

Prosecutors should use the last known contact information and attempt to obtain the updated contact information. Implementing legislation will provide guidance on notification requirements.

What if the offender is being held under a not-guilty by reason of insanity (NGRI) finding in a mental health facility?

A victim must be notified of the escape/recapture or release of an offender from a mental health facility.

If a defendant files for a sealing of the record, does the victim need to be notified by the prosecutor’s office of the request?

Yes, the request to seal a conviction requires the court set a hearing before granting the request. ORC 2953.32(B). The hearing would be considered a public proceeding involving the criminal offense under Marsy’s Law. Therefore, if the victim requested notification and provided current contact information, the victim must be notified of the hearing and have the opportunity to be present.

Is there a requirement to notify victims of arrests? If so, who is responsible to do this?

While not a provision of Marsy’s Law, ORC 2930.05 has required the investigating law enforcement agency to notify victims of arrests.



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Regarding a victim's right to attend a hearing, is that superior to a defendant's rights to speedy or fair trial? Specifically, can a hearing be delayed indefinitely if prosecutors are having difficulty notifying the victim?

No. Implementing legislation may provide guidance regarding what constitutes a reasonable attempt to contact a victim. A hearing cannot be delayed indefinitely due to the defendant's speedy and fair trial rights.

Who is responsible for notifying victims when an offender is released from jail?

Ohio Crime Victim Justice Center encourages all victims to sign up for VINE. VINE notifies victims when an offender is moved or released from jail. While many jails use VINE, some jails do not. Ultimately, the jail is responsible for notifying victims that the offender is going to be released.

VINE isn't foolproof, would jails that have VINE still be required to notify victims of release or escape by calling the victim?

Yes, if VINE is malfunctioning all jails, prisons, detention facilities, and other custodial agencies are required to notify victims of release or escape through alternative methods.

Probation:

Does a notice need to be given to the victim for early termination of probation, if conditions are met and no hearing is scheduled?

Under Marsy's Law, a victim does not need to be notified of early probation termination if there is no hearing. A victim who has requested notice must be notified when a public proceeding is going to occur. However, under implementing legislation, victims may have the right to be informed of any modification of the period of probation or modification of other terms of probation.

Whose responsibility is it to notify the victim of a probation violation hearing?

Marsy's Law does not designate a person or organization that is responsible for notifying the victim of a probation violation hearing. In most cases, the responsibility would fall to the prosecutor or the prosecutor's designee.

Does a victim have a right to be heard at a probation violation hearing?

Yes, the victim has the right to be heard at any public proceeding that involves a victim's right, including probation violation hearings if the victim's rights are implicated.

Is failure to pay restitution a probation (community control) violation?



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Yes, restitution orders can be a condition of community control, however, a court must specify this condition on the record or in a journal entry. If the offender fails to pay restitution, it may count as a violation of community control. In these cases, there would be a hearing to determine whether to revoke community control. An offender cannot be incarcerated for failure to pay restitution if the offender is financially unable to pay.

Restitution:

Does a judge have to order restitution be paid to victims prior to court costs, fines, and fees or is this just assumed? Do courts have discretion over what categories of restitution they order?

Marsy's Law provides that victims are entitled to full and timely restitution. Courts are required to order restitution, not to exceed a victim's actual losses. Victims must still prove their losses in compensable categories. Implementing legislation may include a prioritized order in which restitution is to be paid.

Do insurance companies have right to restitution for money paid to insured/crime victim?

Ohio Crime Victim Justice Center does not consider Marsy's Law to provide this type of relief for insurance companies. Currently, Ohio law provides for payment of restitution to the victim in open court, to the probation department, to the clerk of courts, or another agency as designated by the court. An insurance company is not a proper "agency as designated by the court." *See State v. Colon*, 185 Ohio App.3d 671 (2nd Dist. 2010). The insurance company can seek relief via subrogation or other channels.

If an offender is incarcerated, can victims get restitution from money on the offender's books?

Inmates are subject to several deductions from their accounts, including child support, fines/fees, and restitution.

Is it possible for the courts to deem "full restitution" at a lower amount than the loss that the victim actually accrued or does Marsy's Law require the actual "Full Amount?"

Marsy's Law requires full and timely restitution based on actual losses. Implementing legislation may include, but is not limited to: requisite evidentiary standard, preservation of an offender's assets, civil judgments, and prioritized order of restitution payments.

Does the right to restitution apply to ongoing cases that were filed before February 5, 2018?

Restitution is part of sentencing. Ohio Crime Victim Justice Center believes this is applicable to an offender sentenced on or after February 5, 2018.

Is a payment schedule required?



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In most situations, it will be necessary. The payment terms can be modified for periods of incarceration or similar circumstances that warrant a modification.

Are probation officers and parole officers responsible to collect the restitution?

Currently, ORC 2929.18 and 2929.28 state that restitution must be made to the victim in open court, to the probation department, to the clerk of courts, or another agency as designated by the court. Actual collection of restitution may be the responsibility of the victim, though a prosecutor who is willing to help when asked by a victim or the court may also seek probation revocation or a contempt finding when defendants fail to pay. Implementing legislation may include a provision making a restitution order an automatic civil judgment, and therefore an automatic lien on the defendant's real property. This will provide victims with another avenue to collect restitution.

“I had a judge order restitution for funeral expenses in a homicide, but stayed the order until the defendant is released from prison. The defendant was sentenced to 18 to life. Will Marsy's Law prevent a judge from staying restitution?”

Ohio Crime Victim Justice Center believes staying an order for that duration would not be considered timely if the offender has the ability to pay.

For defendants with large amounts of restitution but little ability to pay what is a reasonable timeline? What if the restitution is ordered however the Defendant does not have the means to pay the restitution? Does a defendant's ability/inability to pay during period of community control continue at termination of community control?

Marsy's Law provides for “full and timely” restitution. If proven, restitution orders are mandatory, but payment may still depend on the offender's ability to pay. *See Bearden v. Georgia*, 461 U.S. 660 (1983). Courts may modify payment terms as necessary. Restitution obligations can continue beyond the length of community control sanction.

When determining restitution payments, what percentage of a defendant's monthly income can be ordered to be paid towards restitution?

Under current law, prisoners in the transitional control program and prisoners in private employment may have up to 25% of their net earnings allocated to make restitution payments to victims. *See OAC 5120-12-05 and 5120-3-09.*

Is the Court required to hold a hearing on Restitution if the victim has exercised their rights as a victim through Marsy's Law?

The court must conduct a hearing if the amount of restitution is in dispute.



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What “tools” are prosecutors to provide victims to seek restitution? Are we talking about civil procedures such as garnishment, foreclosure, etc.?? Can prosecutors file motions when restitution payments have not been made? What is considered timely?

Prosecutors should provide victims with the tools to seek restitution, such as guidance forms and an explanation of supporting documentation that will be required to support a restitution order from the court.

Prosecutors may be asked to file motions on behalf of victims to protect their right to restitution. Prosecutors may consider filing for probation revocation or contempt when defendants fail to pay restitution. Implementing legislation may provide victims with civil avenues for enforcement of restitution orders as well, such as garnishment and foreclosure, though the prosecutor would not be required to assist with those.

The timeliness of the payment will be based upon many factors, including the offender’s ability to pay.

Are the restitution amounts dischargeable in bankruptcy?

The proposed implementing legislation may bar restitution from being dischargeable in a bankruptcy proceeding.

Waiver Form:

Is it a “best practice” or a mandate on law enforcement to provide the rights form to victims at the scene?

At this time, law enforcement is not required to hand out a victims’ rights request/waiver form to victims. Ohio Crime Victim Justice Center considers the use of these forms to be a best practice that facilitates compliance with Marsy’s Law and facilitates the ability of victims to timely exercise their rights. Additionally, the use of the form may be required by implementing legislation.

Under ORC 2930.04, law enforcement is currently required to provide victims, in writing, information about their rights, protection that is available to the victim, including protective orders issued by a court, medical, counseling, housing, emergency, and any other services that are available to a victim, and information about the Crime Victim Compensation Fund.

Law enforcement can fulfill this obligation by providing the Ohio Crime Victims’ Rights Handbook and pamphlets or information cards provided by the Ohio Attorney General’s Office, or law enforcement may create their own handbooks, pamphlets, and/or information cards.

Will there be a standard waiver form that can be used and who is publishing it?



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Ohio Crime Victim Justice Center has a form available for use by law enforcement and prosecutors. Other organizations are working on creating a standardized waiver form as well. Ohio Crime Victim Justice Center will make those forms available on our website as soon as possible.

Is the waiver form a public record?

The request/waiver form is likely a public record under Ohio law and may be accessible through a public records request in some cases. Implementing legislation may require that, upon victim request, victim names and contact information must be redacted from the form prior to public release.

Victim Definition:

How will the broader definition effect the Crime Victims Compensation Fund? Will this extend the definition to qualify for the Crime Victims Compensation Program?

Marsy's Law does not affect the Crime Victim Compensation Fund. The definition of "criminally injurious conduct" that make a victim eligible for this fund is not altered by the amendment. *See* ORC 2743.51(C).

Under this definition of victim is theft now an offense that requires notification? Would you consider a witness to a crime a victim?

Yes, under this definition a victim of theft is entitled to notifications upon request. In some circumstances, a witness can be a victim. Implementing legislation may provide guidance to law enforcement, prosecutors, and courts regarding identifying victims who are "directly and proximately" harmed.

Are corporations or businesses considered victims under Marsy's Law?

Ohio Crime Victim Justice Center believes that in certain circumstances a corporation or business may be considered a victim. For example, in a theft case, the local store may be a victim, but the parent corporation may not fall within the definition of victim due to the requirement of the harm being "direct and proximate." Implementing legislation may provide additional guidance.

Does this expand who has the right to give a victim impact statement at sentencing?

Anyone considered a victim under the new definition has the right to give a victim impact statement at sentencing. Courts may also allow non-victims to give impact statements under some circumstances. Even if a court will not allow non-victims to give an oral statement, many courts will allow non-victims to provide written statements.

Does Marsy's Law apply to criminal traffic offenses?



The language of the amendment includes victims of any criminal offense, which would include criminal traffic offenses in some jurisdictions. Implementing legislation may refine the definition of criminal offense or delinquent act to provide additional guidance.

Juvenile Court cases:

Is there any difference in any of these rights in Juvenile Court?

All of the rights provided in Marsy's Law are applicable in juvenile courts.

Does restitution for a juvenile end at 21? Juvenile restitution orders? What happens once they turn 18?

Restitution orders for juveniles terminate at age 21, as juvenile courts are divested of jurisdiction. However, under implementing legislation, restitution orders may become automatic civil judgments against juveniles, and this judgment would continue until satisfied.

How are victims notified of court proceedings when the defendant is a juvenile? Will Juvenile court be required to notify the victim of the court dates, including the initial appearance?

The prosecutor in a juvenile case is required to make the same notifications as required of prosecutors in adult courts. If there is no prosecutor presently involved, the court must make those notifications.

Does this mean in Diversion Cases in Juvenile Court must not go to formal court so the victim can be identified? Normally the victim would not be identified or notified in Diversion cases as it is not a "formal case."

Ohio Crime Victim Justice Center considers a hearing to determine eligibility and acceptance into a diversion program, as well as any review or dispositional hearings that may occur, to be public proceedings. Additionally, victims have the right to confer with the prosecution and be heard on the issue of offering diversion in lieu of a formal delinquency adjudication. Therefore, victims should receive notification for any hearing, upon request, and should be conferred with upon request.

In minor misdemeanors cases in juvenile court, no restitution is ordered. What should advocates be telling victims who have a restitution issue when the court can't order it?

A provision of Marsy's Law states that it supersedes conflicting state laws. Victims have a constitutional right to "full and timely" restitution. Implementing legislation may refine the definition of criminal offense or delinquent act to provide additional guidance.



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Can Juvenile courts limit restitution amounts?

Marsy's Law provides for "full and timely" restitution. If proven, restitution orders are mandatory, but payment may still depend on the offender's ability to pay. *See Bearden v. Georgia*, 461 U.S. 660 (1983). Courts may modify payment terms as necessary. Implementing legislation may provide additional guidance on this issue.